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PROB 12B

Rev 4-16

AUG - 3 2016

FILED

AUG - 5 2016

Clerk, U.S. District Court
District Of Montana
BillingsClerk, U.S. District Court
District Of Montana
Billings**UNITED STATES DISTRICT COURT****FOR THE****DISTRICT OF MONTANA****REQUEST FOR MODIFYING THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Andy Maxfield**Docket Number:** 0977 1:13CR00087-001**Name of Sentencing Judicial Officer:**

THE HONORABLE THOMAS S. ZILLY

Date of Original Sentence: 02/23/2007**Original Offense:** 18:2423.F; COERCION OR ENTICEMENT OF MINOR**Original Sentence:** 60 months custody, 180 months supervised release**Type of Supervision:** Supervised Release**Date Supervision Commenced:** 01/19/2011**PETITIONING THE COURT**

- To modify the conditions of supervision as follows:

Remove special conditions 2 through 11 on the Judgement and Commitment Order imposed upon the defendant on 02/23/2007, and replace with the following conditions:

<u>Modified Condition</u>	<u>Condition Description</u>
1	Special condition: The defendant shall enter and successfully complete a sex offender treatment program. The defendant is to enter a program designated by, and until released by, the United States Probation Office. The defendant is to pay all or part of the costs of treatment as directed by United States Probation.
2	Special condition: The defendant shall submit to not more than six polygraph examinations per year as directed by United States Probation to assist in treatment, planning, and case monitoring. The defendant maintains the Fifth Amendment rights during polygraph examinations and may refuse to answer any incriminating questions. The defendant is to pay all or part of the cost of the examinations as directed by the United States Probation Office.
3	Special condition: The defendant shall not be allowed to do the following without prior written approval of United States Probation: knowingly reside in the home, residence, or be in the company of any child under the age of 18, with the exception of their own children; go to or loiter within 100 yards of school yards, parks, playgrounds, arcades, or other places primarily used by children under the age of 18.

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4 **Special condition:** All employment must be approved in advance in writing by the United States Probation Office. The defendant shall consent to third-party disclosure to any employer or potential employer.

5 **Special condition:** The defendant shall not knowingly acquire, possess, or view any materials depicting sexually explicit conduct as defined in 18 U.S.C. § 2256(2)(A), if the materials, taken as a whole, are primarily designed to arouse sexual desire, unless otherwise approved by the supervising probation officer in conjunction with defendant's sex offender treatment provider. This condition applies to written stories, visual, auditory, telephonic, or electronic media, computer programs or services, and any visual depiction as defined in 18 U.S.C. § 2256(5).

The defendant shall not knowingly patronize any place where sexually explicit material or entertainment is the primary item of sale, such as adult bookstores, clubs, or Internet sites, unless otherwise approved by the supervising probation officer in conjunction with defendant's sex offender treatment provider. The defendant shall not utilize 900 or adult telephone numbers or any other sex-related numbers, or on-line chat rooms that are devoted to the discussion or exchange of sexually explicit materials as defined above.

6 **Special condition:** The defendant shall not knowingly possess or use any computer or other device with access to any on-line computer service without the prior written approval of the probation officer. The defendant shall allow the probation officer to make unannounced examinations of their computer, hardware, and software, which may include the retrieval and copying of all data from defendant's computer. The defendant shall allow the probation officer to install software to restrict the defendant's computer access or to monitor the defendant's computer access. The defendant shall not possess encryption or steganography software. The defendant shall provide records of all passwords, Internet service, and user identifications (both past and present) to the probation officer and immediately report changes. The defendant shall sign releases to allow the probation officer to access phone, wireless, Internet, and utility records.

7 **Special condition:** The defendant shall comply with Sexual Offender Registration requirements for convicted offenders in any state in which the defendant resides.

8 **Special condition:** The defendant shall submit their person, and any property, residence, place of employment, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, to which the defendant has access, to a search at a reasonable time and a reasonable manner, with or without a warrant, by the United States Probation Office, or by any law enforcement officers upon the express direction of the United States Probation Office, with reasonable suspicion concerning a violation of a condition of

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supervision or unlawful conduct by the defendant. Failure to submit to search may be grounds for revocation. The defendant shall warn any other occupants, adults, and minors that the premises may be subject to searches pursuant to this condition. The defendant shall allow seizure of suspected contraband for further examination.

**** CAUSE ****

On 02/23/2007, the defendant appeared for sentencing before THE HONORABLE THOMAS S. ZILLY, UNITED STATES DISTRICT JUDGE, having pled guilty to the offenses of 18:2423.F; COERCION OR ENTHUSIASM OF MINOR. The offense involved the defendant knowingly traveling in interstate commerce from the state of Montana to Seattle, Washington, for the purpose of engaging in illicit sexual conduct with a person under 18 years of age. The defendant was sentenced to 60 months custody, followed by 180 months supervised release. The defendant began the original term of supervised release on 01/19/2011.

On 08/28/2013, a Transfer of Jurisdiction Order was signed by the Court, allowing this case to be transitioned from the Western District of Washington to the District of Montana.

U.S. Probation Officer Recommendation:

The above modification is requested to amend conditions of release ordered in the original judgement for this case. The modified conditions are necessary to conform with 9th circuit case law and decisions.

In addition, should Your Honor agree with the recommendation, I have enclosed a copy of the Probation form 49, Waiver of Hearing to Modify Conditions of Supervision, where the defendant has voluntarily agreed to modify their conditions. Counsel for the government and the defendant have been consulted and neither party object to the modification.

Reviewed

By:

Brian R Farren

Brian R Farren
Supervising United States Probation
Officer

Date: 08/02/2016

Respectfully Submitted

By:

Brian Hogan

Brian Hogan
United States Probation Officer

Date: 08/02/2016

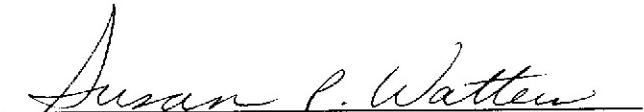
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ORDER OF COURT

- The Extension of Supervision as Noted Above
- The Modification of Conditions as Noted Above
- No Action
- Other



Susan P Watters

United States District Judge



Date

Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MONTANA

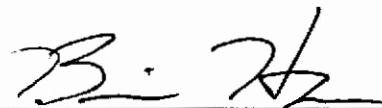
Name of Offender: Andy Maxfield

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I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By 'assistance of counsel', I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

Witness:

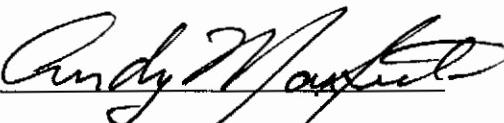


U.S. Probation Officer

Date:

8-4-16

Signed:



Probationer or Supervised Releasee

Date:

8/4/16